

Products License Agreement #3488
Between
RATIONAL SOFTWARE CORPORATION ('Rational')
And
INTERNATIONAL BUSINESS MACHINES CORPORATION ('IBM' or 'Licensee')

THIS AGREEMENT DOES NOT APPLY TO ANY PURCHASES OF RATIONAL SUITE CONTENTSTUDIO, ANY SUITES CONTAINING CONTENTSTUDIO OR CONTENTSTUDIO AS A POINT PRODUCT.

1.0 GENERAL GRANT OF LICENSE. Subject to the terms and conditions of this Agreement, Rational hereby grants to Licensee a nonexclusive, perpetual irrevocable (except in the event of a breach) license to use, execute, reproduce, transmit, display, perform, and transfer (only in accordance with the terms stated herein), the enclosed software program(s) (including any link-time and run-time modules), any hardware key that may be furnished, user documentation, and/or development process documentation (including, but not limited to documentation on computer readable media), (collectively "Product") within the Site (defined below) and in accordance with the definitions of the license type (defined in Section 2.0), for which the applicable license fees were paid. Licensee may also use any enclosed documentation solely to support such use of the Product. A Site ("Site") shall be defined as one of the following regions, or other mutually negotiated geographic designation, for which the applicable license fees were paid, and subject to Export Control restrictions as defined in Paragraph 10 of this Agreement.

1.1 REGIONS.

Region 1: North and South America.

Region 2: Europe, Middle East and Africa.
(Includes the 15 countries of the European Community, Switzerland, Norway, Jersey, Guernsey, Isle of Man, Iceland, Monaco, Andorra, Liechtenstein, San Marino, Malta, Cyprus, Albania, all the countries of the former Yugoslavia, Israel, Turkey, all the countries of the Arab Middle East, Iran, the 6 countries of the former Eastern Europe region (Bulgaria, Romania, Poland, Czech Republic, Slovakia, Hungary), all the countries of the former Soviet Union, all the countries of Africa, Madagascar, and the Islands of the South Indian Ocean.)

Region 3: North East Asia.
(Includes South Korea, Japan, China, Taiwan, Hong Kong, and Macau.)

Region 4: South and South East Asia and Australia/Pacific.
(Includes India, Maldives, Pakistan, Myanmar, Nepal, Bhutan, Bangladesh, Thailand, Laos, Cambodia, Vietnam, Singapore, Malaysia, Indonesia, East Timor, the Philippines, Brunei, Papua New Guinea, the Pacific Ocean Islands, Australia, and New Zealand.)

1.2 ACCESS AND USE. Only Licensee may access or use the Product. Product may only be accessed and used on Licensee's equipment at Licensee's facilities within the Site. Licensee may not rent, lease or use the Product in a service bureau, or service provider capacity, unless Licensee has paid appropriate fees to Rational.

- 1.2.1. CONTRACTOR/CONSULTANT. Notwithstanding the above, Licensee's third-party contractors or consultants ("Contractor") shall be permitted to use the Product: (a) solely for the benefit of Licensee; (b) only according to the terms of this Agreement (including the requirement that Product remains installed only on Licensee's equipment); and (c) with technical support to Contractor to be coordinated through Licensee. Licensee shall at all times be responsible for Contractor's compliance with the terms of this Agreement.
- 1.2.2 OUTSOURCING AGENT. In addition, should Licensee be engaged to perform outsourcing services for its customers and, as part of that outsourcing engagement, Rational Products are required for such customer Rational will grant Licensee the right to purchase Products on behalf of Licensee customer under the following additional terms: a) Licensee shall identify at time of purchase of the Product that is for an outsourcing activity, b) Licensee shall identify the customer for the outsourcing activity, c) Licensee corporate discounts shall not apply to such purchases, d) Licensee must procure the appropriate Regional license, e) any Licensee customer corporate discounts would apply to such purchases or the standard Rational Purchase Order volume discount, f) Licensee customer shall have access to the Product licenses during the outsourcing services engagement, subject to Licensee being responsible for Licensee's customer's compliance with the terms of this Agreement, and g) at the termination of the outsourcing contract (i) the Product shall be transferred in total to the Licensee customer as residual value, (ii) Licensee shall provide advance written notice to Rational prior to transfer, (iii) Licensee shall provide Rational with the facility location and contact for Product transfer, and (iv) the Product transferred shall be subject to the terms and conditions of either the master agreement between Rational and Licensee's customer, or Rational shrinkwrap terms and conditions. The grants provided in this Section 1.2.2, in no way are meant to set Licensee up as a reseller of Rational Products and shall only be allowed under the Licensee being hired to perform outsourcing services for its customers.

Licensee may deinstall, move and reinstall the Product within the Site, provided that Licensee complies with Rational licensing authorization codes and licensing procedures. Licensee may not move the Product outside the Site unless applicable fees have been paid. The Product shall not be accessed concurrently by more than the number of authorized users, including users accessing the Product via an Internet or network connection, for which the applicable license fees have been paid. The Product shall not be accessed by an Internet or network connection user who is located outside of the Site.

A Product is licensed for use only on the designated host platform(s) for which the license is issued, except as may be stated elsewhere in this Agreement. Any Product may be transferred in its entirety from one designated host to a different designated host platform within the same Site provided that: (a) Licensee has a current Customer Support Services ("CSS") contract in place; (b) with any such transfer, in no event shall the total number of licenses in use exceed the total number of licenses for which the license fees have been paid; and (c) Licensee shall be responsible for any additional price in such a transfer of host platforms.

The individual Products that are licensed as part of a multi-Product bundle or a Rational Suites Product may not be used simultaneously by different users, and may be used by only one user at a time. For each separate Product which is included as a component of a Rational Suites Product, that separate Product shall be subject to all licensing properties of the Rational Suites Product. Licensee shall inform all users of the Product of the terms and conditions of this Agreement. Title to and full ownership of all copies of the Product remain with Rational and/or Rational's licensors and are protected by United States copyright laws, patent laws, international treaties, and all other applicable laws. All rights not explicitly granted to Licensee herein are reserved to Rational.

1.3 ASSIGNMENT AND TRANSFER. Except as provided in this Section 1.3, Licensee may not assign or otherwise transfer Product licenses, including, but not limited to, assignment or transfer to parent companies, majority owned (more than 50%) subsidiaries and/or affiliates. Notwithstanding the previous sentence, for Product purchased for Licensees own internal use, Licensee may transfer the Product licenses to its parent company, or a majority owned (more than 50%) subsidiary and/or affiliate, under the following additional terms: a) Licensee will provide advance written notice to Rational, b) Licensee shall provide a point of contact for the transferred Product license, c) Licensee shall provide the new address location of where the Product license will reside, d) Licensee shall not transfer the Product license more than four times annually, e) all such transferred Product licenses must be under a current Customer Support Services contract, and f) all such transferred Product licenses shall only be transferred within the Region for which it was purchased. In no event shall such a Product license transfer be for use by a minority owned Licensee entity, joint venture or business partner. Nevertheless, upon notice to Rational, a Product License may be assigned or transferred: (a) in connection with a sale of all or substantially all Licensee's business assets; or (b) pursuant to a U. S. Government program awarded to Licensee if the Product is assigned to the U.S. Government as residual property at the end of a contract, but not under an indefinite delivery, indefinite quantity ("IDIQ") contract or similar procurement vehicle. Any such assignment of residual property shall be subject to the terms and conditions stated herein. After any such assignment or transfer, the assigning or transferring Licensee shall have no rights with regard to the Product licenses.

2.0 LICENSE TYPES.

2.1 FLOATING: A Product license that allows shared use on multiple designated hosts, provided simultaneous use occurs via a common license server(s) and does not exceed the total number of authorized Product licenses.

2.1.1 WORLDWIDE FLOATING LICENSES: For a Worldwide Floating License, provided that applicable license fees have been paid, the Site shall be defined as all Regions in Section 1.1.

2.2 NODE-LOCKED: A Product license that allows non-simultaneous use by one or more users only on a single, designated host (node). This Product license is tied to the host hardware by the hard drive product ID.

2.2.1 PORTABLE COMPUTER USAGE (e.g., laptop). When a node-locked Product is installed on a portable computer as the authorized designated host, any Site limitations shall not apply, provided that the Product shall not be transferred to any other host outside the Site.

2.3 NAMED USER: A Product license for which shared access on multiple designated hosts is controlled by maintaining specific user ID's on a common license server(s). The number of user ID's cannot exceed the number of licenses purchased. Only specified users are eligible to use the Product license.

2.4 RATIONAL UNIFIED PROCESS: A Product license for which the number of Product licenses shall equal the total number of project members on all projects following such process. A Product license must be purchased for each authorized user.

2.5 SUBSCRIPTION. A limited term, non-perpetual Product license, with a Site defined as all Regions in Section 1.1. Use is authorized only by identified users on multiple designated hosts, provided use occurs via a common license server(s) and the total number of simultaneous users does not exceed the total number of authorized Subscription Product licenses purchased for the applicable Product. Licensee may change the identified users at any time during the term of the Subscription Product license at no additional fee, subject to the limitation of total simultaneous users set forth in the foregoing sentence. Notwithstanding any

contrary terms of this Agreement, a subscription license: (a) is not assignable except upon written approval by Rational; (b) has an expiration date on its authorization code corresponding to the termination date of the license purchased, and shall be disabled upon the expiration of the license term; and (c) includes updates and support in accordance with the Rational Software Corporation Customer Support Services Terms and Conditions.

- 3.0 AUTHORIZATION CODES. Many Rational Products require periodic authorization codes based on the serial number or host I.D. of the installation computer and the number of authorized concurrent users. These codes require Rational to enable such Product for use on a particular installation computer. The Product may contain such codes and may be disabled if installed on a computer with a different serial number or if used by more than the authorized number of concurrent users.
- 4.0 COPIES. The Product (or any derivative work, if applicable) may be copied or modified only in the following circumstances: (a) source code of reusable components of the Rational Compilation Integrator may be copied for use on any remote compilation platform only; (b) to create derivative works pursuant to Section 13.2; (c) pursuant to Section 13.3; (d) to create a derivative work of the computer readable documentation (however, any derivative work of computer readable documentation will contain material proprietary to Rational (or Rational's licensor), and Licensee shall not copy or distribute the derivative work without the express written consent of Rational); or (e) as reasonably required for back-up or archival purposes. Licensee may copy Product documentation as reasonably required to support internal use of the Product. In all instances of authorized copying, Licensee shall reproduce in each copy all copyright, patent, proprietary rights and U.S. government restricted rights legends.
- 5.0 TERM AND TERMINATION OF PRODUCT LICENSE. The Product license shall be valid from the date purchased by Licensee and is perpetual unless terminated: (a) by mutual consent; (b) by Licensee's election; or (c) by Rational upon thirty (30) days written notice of Licensee's unremedied material breach of this Agreement. In the event of any termination of this Agreement, Licensee shall at the request of Rational either 1) immediately return to Rational all copies of the Product and other Rational provided materials and certify to Rational that any and all copies of the Product have been returned to Rational, or 2) destroy all copies of the Product and other Rational provided materials and certify to Rational that any and all Product and materials have been destroyed.
- 6.0 UPDATES AND SUPPORT. This Agreement does not grant Licensee rights to any improvements, modifications, enhancements, updates to the Product, or other support services. Support services may be purchased separately from Rational in accordance with the Rational Software Corporation Customer Support Services Terms and Conditions, which is mandatory for the initial year for most Rational Products. The purchase of support services does not increase the number of authorized users for the Product. Use of improvements, modifications, enhancements or updates to the Product shall be governed by the terms and conditions of this Agreement.
- 7.0 LIMITED WARRANTIES. Rational warrants the media on which the Product is furnished to Licensee to be free of defects in materials and workmanship and that the Product will substantially operate according to specifications published by Rational for a period of ninety (90) days from the date of purchase. The latest revisions of all of Rational's currently available Product on Windows, Windows 95, Windows NT, and on supported variants of UNIX, rely on standard mechanisms for all operations related to computing and storing the date and time. The Product accurately processes date data, when used in accordance with the Product documentation provided and to the extent that the hardware and underlying operating system correctly process date data. Rational Products will remain Year 2000 compliant provided the Product remains under current Customer Support Services contract and the updates provided thereunder are applied to the Product. Rational certifies that at the end of its development and manufacturing process and prior to shipment of Product for Windows platforms

('Windows-Product'), Rational shall have conducted virus testing using a leading commercial virus testing software program, and such Windows-Product is free of any viruses detectable via such testing.

Rational's sole liability and Licensee's exclusive remedy for breach of any warranties shall be, at Rational's option: (a) to repair or replace Licensee's defective media or Product or; (b) to refund the license fee paid for the Product and cancel this Agreement. Any modification of the Product by any person other than a Rational representative or any use of the Product with infringing software or data will void this warranty.

RATIONAL DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE PRODUCT WILL MEET LICENSEE'S REQUIREMENTS OR THAT THE PRODUCT WILL BE ERROR-FREE. EXCEPT TO THE EXTENT PROHIBITED BY LAW, RATIONAL EXPRESSLY DISCLAIMS ALL WARRANTIES (OTHER THAN THOSE WARRANTIES STATED IN THIS SECTION 7.0), EXPRESS OR IMPLIED, WITH RESPECT TO THE MEDIA AND PRODUCT, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND ANY WARRANTY AGAINST INTERFERENCE WITH LICENSEE'S QUIET ENJOYMENT OF THE PRODUCT. IN THE EVENT THAT SOURCE CODE LICENSED AND PROVIDED UNDER THIS AGREEMENT IS MODIFIED BY LICENSEE (WHICH MODIFICATION SHALL INCLUDE, WITHOUT LIMITATION, THE CREATION OF OBJECT CODE), THE WARRANTIES AS PROVIDED IN THIS SECTION 7.0 ARE VOID AS TO SUCH SOURCE CODE, AND SUCH SOURCE CODE IS THEN PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND WHATSOEVER. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER (IN THE CASE OF RATIONAL, THIS LIMITATION SHALL APPLY TO RATIONAL AND ITS LICENSORS), OR A THIRD PARTY FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES INCLUDING LOST PROFITS, LOST DATA AND THE LIKE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EVEN IF RATIONAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR THE INDEMNIFICATION OBLIGATIONS OF PARAGRAPH 8.0, IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF RATIONAL OR ITS LICENSORS TO LICENSEE OR ANY OTHER PARTY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS RELATED TO, ARISING FROM, OR BASED UPON THIS AGREEMENT EXCEED THE LICENSE FEE PAID BY LICENSEE FOR USE OF THE PRODUCT.

- 8.0 **INDEMNIFICATION.** Rational shall, except as otherwise provided below, defend or settle any claim made or any suit or proceeding brought against Licensee so far as it is based on an allegation that any Product furnished hereunder infringes any patent, copyright, trademark, trade secret or other intellectual property right, if Rational is notified promptly in writing and given reasonable information and assistance, and Rational is given the sole authority to defend or settle same at Rational's expense. Rational shall pay all damages and costs (other than costs of Licensee's retained counsel or the value of the services of Licensee's employees) finally awarded therein against Licensee. In case said Product in such suit is held to infringe and the use of said Product is enjoined, or in the case of a settlement as referred to above, Licensee will permit Rational, at its own option and expense, to: (a) procure for Licensee the right to continue using said Product; (b) replace same with a noninfringing Product without degradation in performance; (c) modify said Product so it becomes noninfringing without degradation in performance; or, (d) if none of the foregoing is practicable in the reasonable judgment of Rational, Rational will refund the price paid for said Product. Rational shall have no liability for any infringement of patents, copyrights, or other intellectual property rights, trademarks or trade secret resulting from: compliance with Licensee's designs, specifications, or instructions; modifications of said Product by any party other than Rational other than in accordance with Rational's instructions; or use of said Product other than as specified in relevant Rational publications. THIS SECTION 8.0 STATES RATIONAL'S AND ITS LICENSORS' ENTIRE LIABILITY FOR COPYRIGHT, TRADE SECRET, PATENT OR OTHER INTELLECTUAL PROPERTY RIGHT INFRINGEMENT BY PRODUCT FURNISHED HEREUNDER.

- 9.0 LICENSEE RESPONSIBILITIES. Licensee agrees not to reproduce, deactivate or bypass the security devices, including any hardware key, supplied with the Product. Licensee agrees to comply with all Rational standard Product licensing procedures and authorization codes, and not to utilize programs, scripts or any other automatic devices to access or use the Product in a manner inconsistent with the terms of this Agreement. Licensee agrees to preserve and respect all copyright, and patent, notices and U.S. government restricted rights legends included in the Product. Licensee agrees not to disassemble or reverse-compile the Product or any portion thereof and to not permit others to do so, except as permitted by applicable law, but then only to the extent that: (a) Rational is not legally entitled to exclude or limit such rights by contract and; (b) Licensee notifies Rational of Licensee's requirements with respect to interoperability or functional compatibility before engaging in reverse engineering and give Rational the opportunity to provide to Licensee the information necessary to achieve such interoperability Licensee shall be responsible for all taxes including, but not limited to, sales, use, withholding, value-added and excise taxes assessed or levied by any jurisdiction arising out of the performance of this Agreement, except for taxes based on the net income of Rational.
- 10.0 EXPORT CONTROLS. The Product is subject to all applicable export laws in accordance with the U.S. Export Administration Regulations and Licensee hereby agrees that neither the technical data nor the direct product thereof is intended to be shipped, either directly or indirectly to any embargoed countries nor used for or in support of any prohibited activities.
- 11.0 GENERAL. This Agreement represents the complete and exclusive statement of the agreements concerning the license between the parties, supersedes all prior agreements and understandings, and may be modified only in writing signed by Licensee and Rational. The acceptance of any purchase order placed by Licensee is expressly made conditional on Licensee's assent to fully comply with all applicable laws and regulations, the terms and conditions set forth herein, and any terms or conditions contained in Licensee's purchase order or other writing pertaining to this license that are inconsistent with this Agreement are hereby rejected. If any provision of this Agreement is held to be unenforceable or illegal under certain circumstances for any reason, such decision shall not affect the validity or enforceability of such provisions under other circumstances or the remaining provisions hereof and such provisions shall be reformed only to the extent necessary to make them enforceable under such circumstances. This Agreement shall be governed by and construed under California law.
- 12.0 U.S. GOVERNMENT RIGHTS. In the event of any U.S. Government involvement with Product licensed under this Agreement, use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth in this Agreement and in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013(c)(1)(ii) (Oct 1988), FAR 12.212(a) 1995, FAR 52.227-19, or FAR 52.227-14, as applicable. Licensee and Licensee's successors in interest agree that only rights to the Product set forth in this License are provided.
- 13.0 ADDITIONAL PRODUCT SPECIFIC TERMS.
- 13.1 PERFORMIX LICENSES. With regard to Performix licenses, each license authorizes Licensee to use the Product for the purpose of testing Licensee's software application by emulating use of the application limited to a number of users specified on the applicable order ("User Emulation User Limit").
- 13.2 SOURCE CODE PRODUCTS. Certain Rational Products, including, without limitation, APEX, VADS, Rational Rose Realtime, Rational Test RealTime and Rational Site Load Product families, include source code as part of the Product License. Except with respect to any Rational SiteLoad Product license, if source code is enclosed, Licensee may use it to create derivative works to be used in accordance with the foregoing license provisions. All copyright, patent, trademark and trade secret rights in and to the Product shall remain with its owner and shall continue in the portions of the Product incorporated into any derivative work.

Licensee acknowledges that because the source code contains, and any derivative work will contain, material proprietary to Rational or Rational's licensors, Licensee shall not copy or distribute source code or any derivative work without the express written consent of Rational and, in some cases, payment of additional license fees. Licensee may make, modify and distribute copies of the Standard C++ Library, and other third party C++ Libraries, not exclusively distributed as target software ("Libraries"), solely as incorporated into derivative works composed of the Libraries, provided that the Libraries do not constitute a major portion of the value of the derivative work. Notwithstanding any provisions in this Agreement to the contrary, Licensee may not distribute in any manner the header files, source code, object modules, executables, template-based classes, or independent static libraries of the Libraries.

13.3 RATIONAL UNIFIED PROCESS (RUP) PRODUCT. Rational grants the licensee the right to create derivative works of the Rational Unified Process Product. Each authorized user creating and/or utilizing such derivative works must have a valid license for RUP pursuant to Section 2.4 of this Agreement. Such derivative works shall not be distributed to any third party without the prior written consent of Rational.

13.4 RUNTIME COMPONENTS. Certain Rational Products, including, without limitation, Performix, Apex Embedded, VADScross, VADSworks and Rational Rose RealTime Product families include components in the form of runtime libraries, scripts, utilities, or add-ins ("Runtime Components"). Licensee agrees that Licensee's application shall contain the proper copyright, proprietary rights, and confidentiality notices and restricted rights legends set forth in the Product, and Licensee agrees to indemnify, hold harmless, and defend Rational and its suppliers from and against any claims or lawsuits, including attorney's fees, that arise or result from the marketing, use or sublicensing of the Licensee's application or Licensee's distribution of such Runtime Components.

13.4.1 PERFORMIX PRODUCT. Rational grants Licensee a non-exclusive license to use the Runtime Component for a Performix product only with Rational's licensed Product and only in conjunction with the licensed use of the Performix product.

13.4.2 APEX EMBEDDED, VADSCROSS AND VADSWORKS PRODUCTS. Rational's Apex Embedded, VADScross, VADSworks Products include runtime libraries identified as the Apex Embedded (VADS) Ada Runtime System ("Target Software") that are linked in with the user's program. For each such Product licensed, Rational grants Licensee a non-exclusive license to reproduce and distribute one copy of such Product's Target Software in object code form only and solely when bundled with or contained in Licensee's software product, and to use copies of Target Software internally. Licensee agrees to purchase runtime sublicensing rights by paying an additional license fee ("Target Fee") for each copy of Licensee's software sold, transferred, or placed into use by Licensee that contains Target Software.

13.4.3 RATIONAL ROSE REALTIME PRODUCTS (INCLUDING CONNEXIS PRODUCTS). As to the Runtime Components of Rational Rose RealTime, Licensee is further granted a license to reproduce, and distribute to end users of Licensee's application the executable code (i.e., object code) produced by Licensee with the Rational Rose RealTime Product for the licensed target platform. Licensee may also distribute to end users of Licensee's application the executable code produced with the Rational Rose RealTime Target Deployment Package Product and Connexis Product for the licensed target platform. All such distribution rights granted above, are limited: (a) for Rational Rose RealTime Product: to distributing executable code for the operating system and platform for which the Product is licensed and on which it is to be installed (licensed host platform); (b) for Rational Rose RealTime Target Deployment Package Product: to distributing executable code for the target deployment platform(s) for which the Rational Rose RealTime Target Deployment Package Product is licensed; (c) for Connexis Standard Edition Product and Connexis Professional Edition Product: to distributing executable code for the operating system and platform for which the Product is licensed and on which it is to be installed (licensed host platform) and the target deployment platform(s) for which the Product is licensed; and (d) for all four Products: to distributing only as part of Licensee's application, and only if the executable code does not

constitute a major portion of the value of Licensee's application. If Licensee has licenses for both Rational Rose RealTime and Rational Rose RealTime Target Deployment Package Product(s), Licensee may, at its own risk, develop an application to run on platforms not supported by Rational. Where executable code is embedded in Licensee's application, Licensee further agrees that the distribution of such executable code by the Licensee shall be pursuant to an end user license agreement which protects Rational, its licensors and the Runtime Components to at least the same extent as this Agreement.

With regard to the individual Connexis Product and the individual Rational Rose RealTime Target Deployment Package Product components that are licensed as part of either a Rational Rose RealTime Professional Product license or a Rational Suite DevelopmentStudio RealTime Edition Product license, Licensee may only utilize each such individual component concurrent with the use of the Product license of which it is a part.

13.5 VISUAL TEST REDISTRIBUTABLE COMPONENTS.

13.5.1 SAMPLE CODE. Rational grants to Licensee a non-exclusive, royalty-free right to use and modify the source code version of those portions of the Visual Test Product which are identified in the Visual Test Product as the Sample Code ("Sample Code"), provided Licensee complies with Section 13.5.3. Licensee may not distribute the Sample Code or any modified version of the Sample Code, in source code form.

13.5.2 REDISTRIBUTABLE FILES. Rational grants to Licensee a non-exclusive, royalty-free right to reproduce and distribute the object code version of any portion of the Visual Test Product EXCEPT those portions designated in the Visual Test Product file NOREDIST.WRI, ("Redistributables"), provided Licensee complies with Section 13.5.3.

13.5.3 REDISTRIBUTION REQUIREMENTS. If Licensee redistributes the Redistributables and/or Sample Code (collectively "Redistributable Components"): (a) Licensee agrees to distribute the Redistributable Components in object code form only in conjunction with and as a part of Licensee's software product compiled with Rational Visual Test; (b) Licensee's software product must add significant and/or primary value to the Redistributables; (c) Licensee's software product may not, in the reasonable opinion of Rational, compete with the Visual Test Product; (d) Licensee agrees to not use Rational's name, logo, or trademarks to market Licensee's software product; (e) Licensee agrees to include a valid copyright notice on Licensee's software product; (f) Licensee agrees to display, if required in the Visual Test Product documentation, the designated patent notices on the packaging and in the README file of Licensee's software product; and (g) Licensee agrees to indemnify, hold harmless, and defend Rational and its suppliers from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of Licensee's software product.

13.5.4 RATIONAL VISUAL TEST PRODUCT (VT). The Rational Visual Test Product (VT) comprises software programs that are compatible with Intel-based hosts (running 16-bit or 32-bit Microsoft Windows or Windows NT), as well as non-Intel-based hosts (running Microsoft Windows NT). Licensee may, subject to the terms of this Agreement, install and use one copy of the VT provided for one type of host on a single computer.

13.6 CLEARCASE LICENSES. Licensee is prohibited from creating any software program which links, embeds or makes direct function calls to Product runtime components licensed to Rational by third parties.



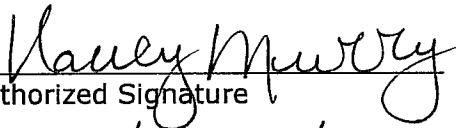
13.7 RATIONAL SITELOAD LICENSES. For each Product license of Rational SiteLoad, Licensee receives the Product with the number of available Virtual Testers limited to the Virtual Tester capacity purchased. Expanding the number of available Virtual Testers by any means, including multiple installations of the Product, is prohibited without first purchasing the appropriate additional Virtual Tester capacity. Certain versions of the Rational SiteLoad product include source code in order for Licensee to modify the Product to meet specific environment needs. Use of such source code provided is limited to the internal testing requirements of Licensee. For any derivative works produced with such source code, no rights are granted for any use other than internal testing requirements of Licensee. Section 13.2 of this Agreement shall not apply to any Rational SiteLoad Product, and Licensee may not copy or distribute in any manner any source code contained therein.

13.8 THIRD PARTY PASS-THROUGH TERMS.

13.8.1 NETEGRITY. Rational, under contract with Netegrity, Inc., bundles parts of Netegrity SiteMinder software with the Product. Such bundled parts shall not be unbundled from, or used independently of, the Product.

The Effective Date shall be the date of the last authorized signature below. The parties hereby signify concurrence and agreement to the terms and conditions of this Agreement, by signature of an authorized representative of its company.

RATIONAL SOFTWARE CORPORATION


Authorized Signature

NANCY MURRY
Name (Print/Type)

CONTRACTS MANAGER
Title (Print/Type)

11/07/01
Date

INTERNATIONAL BUSINESS MACHINES
CORPORATION


Authorized Signature

JAMES W. Hughes
Name (Print/Type)

SENIOR CONTRACTS ADVISOR
Title (Print/Type)

November 5, 2001
Date